

## STATE OF ARIZONA OFFICE OF THE GOVERNOR

**EXECUTIVE OFFICE** 

March 27, 2018

Douglas A. Ducey

Governor

The Honorable Michele Reagan Secretary of State 1700 W. Washington, 7<sup>th</sup> Floor Phoenix, AZ 85007

Dear Secretary Reagan:

I am transmitting to you the following bills from the Fifty-third Legislature, 2<sup>nd</sup> Regular Session, which I signed on March 27, 2018:

HB 2034 social security; state agency designation (Livingston)

HB 2053 sexual acts; theft by extortion (Syms)

HB 2078 political subdivisions; candidate committee (Finchem)

HB 2085 schools; emergency epinephrine administration (Carter)

HB 2168 mobile homes; recreational vehicles; fund (Coleman)

HB 2190 county improvement districts; repayment agreements (Mitchell)

HB 2243 wrong-way driving; violation; DUI (Farnsworth, E.)

HB 2247 criminal justice commission; reporting requirements (Farnsworth, E.)

HB 2312 setting aside conviction; requirements (Farnsworth, E.)

HB 2404 taxidermy; registry (Mosley)

HB 2460 charter schools; vacant buildings; equipment (Leach)

HB 2461 zoning regulations; private schools (Leach)

HB 2633 pharmacists; controlled substances (Cobb)

SB 1375 contractor licensure (Fann)

SB 1423 common school districts; lapsing; procedure (Griffin)

Sincerely,

Douglas A. Ducey

Governor

State of Arizona

cc: Senate Secretary

Chief Clerk of the House of Representatives

Arizona News Service

House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona House of Representatives Fifty-third Legislature Second Regular Session 2018

# CHAPTER 76 HOUSE BILL 2053

AN ACT

AMENDING SECTION 13-705, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-1428; AMENDING SECTION 13-3821, ARIZONA REVISED STATUTES; RELATING TO SEXUAL OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona: Section 1. Section 13-705, Arizona Revised Statutes, is amended to read:

#### 13-705. <u>Dangerous crimes against children; sentences;</u> definitions

- A. A person who is at least eighteen years of age and who is convicted of a dangerous crime against children in the first degree involving sexual assault of a minor who is twelve years of age or younger or sexual conduct with a minor who is twelve years of age or younger shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served thirty-five years or the sentence is commuted. This subsection does not apply to masturbatory contact.
- B. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who is convicted of a dangerous crime against children in the first degree involving attempted first degree murder of a minor who is under twelve years of age, second degree murder of a minor who is under twelve years of age, sexual assault of a minor who is under twelve years of age, sexual conduct with a minor who is under twelve years of age or manufacturing methamphetamine under circumstances that cause physical injury to a minor who is under twelve years of age may be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served thirty-five years or the sentence is commuted. If a life sentence is not imposed pursuant to this subsection, the person shall be sentenced to a term of imprisonment as follows:

MinimumPresumptiveMaximum13 years20 years27 years

C. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who is convicted of a dangerous crime against children in the first degree involving attempted first degree murder of a minor who is twelve, thirteen or fourteen years of age, second degree murder of a minor who is twelve, thirteen or fourteen years of age, sexual assault of a minor who is twelve, thirteen or fourteen years of age, taking a child for the purpose of prostitution, child sex trafficking, sexual conduct with a minor who is twelve, thirteen or fourteen years of age, continuous sexual abuse of a child or manufacturing methamphetamine under circumstances that cause physical injury to a minor who is twelve, thirteen or fourteen years of age or involving or using minors in drug offenses shall be sentenced to a term of imprisonment as follows:

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1 <u>Minimum</u> <u>Presumptive</u> <u>Maximum</u> 2 13 years 20 years 27 years

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows:

MinimumPresumptiveMaximum23 years30 years37 years

D. Except as otherwise provided in this section, a person who is at least eighteen years of age or who has been tried as an adult and who is convicted of a dangerous crime against children in the first degree involving aggravated assault, unlawful mutilation, molestation of a child, commercial sexual exploitation of a minor, sexual exploitation of a minor, aggravated luring a minor for sexual exploitation, child abuse or kidnapping shall be sentenced to a term of imprisonment as follows:

MinimumPresumptiveMaximum10 years17 years24 years

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows:

MinimumPresumptiveMaximum21 years28 years35 years

E. Except as otherwise provided in this section, if a person is at least eighteen years of age or has been tried as an adult and is convicted of a dangerous crime against children involving luring a minor for sexual exploitation, SEXUAL EXTORTION or unlawful age misrepresentation and is sentenced to a term of imprisonment, the term of imprisonment is as follows and the person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted:

MinimumPresumptiveMaximum5 years10 years15 years

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted:

MinimumPresumptiveMaximum8 years15 years22 years

F. Except as otherwise provided in this section, if a person is at least eighteen years of age or has been tried as an adult and is convicted of a dangerous crime against children involving sexual abuse or bestiality under section 13-1411, subsection A, paragraph 2 and is sentenced to a term of imprisonment, the term of imprisonment is as follows and the

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person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted:

MinimumPresumptiveMaximum2.5 years5 years7.5 years

A person who has been previously convicted of one predicate felony shall be sentenced to a term of imprisonment as follows and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted:

MinimumPresumptiveMaximum8 years15 years22 years

- G. The presumptive sentences prescribed in subsections B, C and D of this section or subsections E and F of this section if the person has previously been convicted of a predicate felony may be increased or decreased pursuant to section 13-701, subsections C, D and E.
- H. Except as provided in subsection F of this section, a person who is sentenced for a dangerous crime against children in the first degree pursuant to this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served or commuted.
- I. A person who is convicted of any dangerous crime against children in the first degree pursuant to subsection C or D of this section and who has been previously convicted of two or more predicate felonies shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served not fewer than thirty-five years or the sentence is commuted.
- J. Notwithstanding chapter 10 of this title, a person who is at least eighteen years of age or who has been tried as an adult and who is convicted of a dangerous crime against children in the second degree pursuant to subsection B, C or D of this section is guilty of a class 3 felony and if the person is sentenced to a term of imprisonment, the term of imprisonment is as follows and the person is not eligible for release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served the sentence imposed by the court, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted:

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MinimumPresumptiveMaximum5 years10 years15 years

- K. A person who is convicted of any dangerous crime against children in the second degree and who has been previously convicted of one or more predicate felonies is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.
- L. Section 13-704, subsection J and section 13-707, subsection B apply to the determination of prior convictions.
- M. The sentence imposed on a person by the court for a dangerous crime against children under subsection D of this section involving child molestation or sexual abuse pursuant to subsection F of this section may be served concurrently with other sentences if the offense involved only one victim. The sentence imposed on a person for any other dangerous crime against children in the first or second degree shall be consecutive to any other sentence imposed on the person at any time, including child molestation and sexual abuse of the same victim.
- N. In this section, for purposes of punishment an unborn child shall be treated like a minor who is under twelve years of age.
- 0. A dangerous crime against children is in the first degree if it is a completed offense and is in the second degree if it is a preparatory offense, except attempted first degree murder is a dangerous crime against children in the first degree.
  - P. For the purposes of this section:
- 1. "Dangerous crime against children" means any of the following that is committed against a minor who is under fifteen years of age:
  - (a) Second degree murder.
- (b) Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.
  - (c) Sexual assault.
  - (d) Molestation of a child.
  - (e) Sexual conduct with a minor.
  - (f) Commercial sexual exploitation of a minor.
  - (g) Sexual exploitation of a minor.
- (h) Child abuse as prescribed in section 13-3623, subsection A, paragraph 1.
  - (i) Kidnapping.
  - (j) Sexual abuse.
- (k) Taking a child for the purpose of prostitution as prescribed in section 13-3206.
  - (1) Child sex trafficking as prescribed in section 13-3212.
  - (m) Involving or using minors in drug offenses.

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- (n) Continuous sexual abuse of a child.
- (o) Attempted first degree murder.
- (p) Sex trafficking.
- (q) Manufacturing methamphetamine under circumstances that cause physical injury to a minor.
- (r) Bestiality as prescribed in section 13-1411, subsection A, paragraph 2.
  - (s) Luring a minor for sexual exploitation.
  - (t) Aggravated luring a minor for sexual exploitation.
  - (u) Unlawful age misrepresentation.
  - (v) Unlawful mutilation.
  - (w) SEXUAL EXTORTION AS PRESCRIBED IN SECTION 13-1428.
- 2. "Predicate felony" means any felony involving child abuse pursuant to section 13-3623, subsection A, paragraph 1, a sexual offense, conduct involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, or a dangerous crime against children in the first or second degree.
- Sec. 2. Title 13, chapter 14, Arizona Revised Statutes, is amended by adding section 13-1428, to read:

#### 13-1428. <u>Sexual extortion; classification; definition</u>

- A. A PERSON COMMITS SEXUAL EXTORTION BY KNOWINGLY COMMUNICATING A THREAT WITH THE INTENT TO COERCE ANOTHER PERSON TO DO ANY OF THE FOLLOWING:
  - 1. ENGAGE IN SEXUAL CONTACT OR SEXUAL INTERCOURSE.
- 2. ALLOW THE OTHER PERSON'S GENITALS, ANUS OR FEMALE BREAST TO BE PHOTOGRAPHED, FILMED, VIDEOTAPED OR DIGITALLY RECORDED.
  - 3. EXHIBIT THE OTHER PERSON'S GENITALS, ANUS OR FEMALE BREAST.
- B. SEXUAL EXTORTION IS A CLASS 3 FELONY UNLESS THE VICTIM IS UNDER FIFTEEN YEARS OF AGE IN WHICH CASE SEXUAL EXTORTION IS A CLASS 2 FELONY PUNISHABLE PURSUANT TO SECTION 13-705.
- C. FOR THE PURPOSES OF THIS SECTION, "COMMUNICATING A THREAT" MEANS A THREAT TO DO ANY OF THE FOLLOWING:
  - 1. DAMAGE THE PROPERTY OF THE OTHER PERSON.
  - 2. HARM THE REPUTATION OF THE OTHER PERSON.
- 3. PRODUCE OR DISTRIBUTE A PHOTOGRAPH, FILM, VIDEOTAPE OR DIGITAL RECORDING THAT DEPICTS THE OTHER PERSON ENGAGING IN SEXUAL CONTACT OR SEXUAL INTERCOURSE OR THE EXHIBITION OF THE OTHER PERSON'S GENITALS, ANUS OR FEMALE BREAST.
- Sec. 3. Section 13-3821, Arizona Revised Statutes, is amended to read:

### 13-3821. <u>Persons required to register; procedure;</u> <u>identification card; assessment; definitions</u>

A. A person who has been convicted of or adjudicated guilty except insane for a violation or attempted violation of any of the following

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offenses or who has been convicted of or adjudicated guilty except insane or not guilty by reason of insanity for an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the following offenses or an offense that was in effect before September 1, 1978 and that, if committed on or after September 1, 1978, has the same elements of an offense listed in this section or who is required to register by the convicting or adjudicating jurisdiction, within ten days after the conviction or adjudication or within ten days after entering and remaining in any county of this state, shall register with the sheriff of that county:

- 1. Unlawful imprisonment pursuant to section 13-1303 if the victim is under eighteen years of age and the unlawful imprisonment was not committed by the child's parent.
- 2. Kidnapping pursuant to section 13-1304 if the victim is under eighteen years of age and the kidnapping was not committed by the child's parent.
- 3. Sexual abuse pursuant to section 13-1404 if the victim is under eighteen years of age.
  - 4. Sexual conduct with a minor pursuant to section 13-1405.
  - 5. Sexual assault pursuant to section 13-1406.
- 6. Sexual assault of a spouse if the offense was committed before August 12, 2005.
  - 7. Molestation of a child pursuant to section 13-1410.
  - 8. Continuous sexual abuse of a child pursuant to section 13-1417.
- 9. Taking a child for the purpose of prostitution pursuant to section 13-3206.
- 10. Child prostitution pursuant to section 13-3212, subsection A or subsection B, paragraph 1 or 2 committed before August 9, 2017.
- 11. Child sex trafficking pursuant to section 13-3212, subsection A or subsection B, paragraph 1 or 2 committed on or after August 9, 2017.
- 12. Commercial sexual exploitation of a minor pursuant to section 13-3552.
  - 13. Sexual exploitation of a minor pursuant to section 13-3553.
- 14. Luring a minor for sexual exploitation pursuant to section 13-3554.
- 15. A second or subsequent violation of indecent exposure to a person WHO IS under fifteen years of age pursuant to section 13-1402.
- 16. A second or subsequent violation of public sexual indecency to a minor WHO IS under the age of fifteen years OF AGE pursuant to section 13-1403, subsection B.
- 17. A third or subsequent violation of indecent exposure pursuant to section 13-1402.
- 18. A third or subsequent violation of public sexual indecency pursuant to section 13-1403.
  - 19. A violation of section 13-3822 or 13-3824.

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- 20. Unlawful age misrepresentation.
- 21. Aggravated luring a minor for sexual exploitation pursuant to section 13-3560.
- 22. SEXUAL EXTORTION PURSUANT TO SECTION 13-1428 IF THE VICTIM IS UNDER FIFTEEN YEARS OF AGE.
- B. Before the person is released from confinement the state department of corrections in conjunction with the department of public safety and each county sheriff shall complete the registration of any person who was convicted of or adjudicated guilty except insane for a violation of any offense listed under subsection A of this section. Within three days after the person's release from confinement, the state department of corrections shall forward the registered person's records to the department of public safety and to the sheriff of the county in which the registered person intends to reside. Registration pursuant to this subsection shall be consistent with subsection E of this section.
- C. Notwithstanding subsection A of this section, the judge who sentences a defendant for any violation of chapter 14 or 35.1 of this title or for an offense for which there was a finding of sexual motivation pursuant to section 13-118 may require the person who committed the offense to register pursuant to this section.
- D. The court may require a person who has been adjudicated delinquent for an act that would constitute an offense specified in subsection A or C of this section to register pursuant to this section. Any duty to register under this subsection shall terminate when the person reaches twenty-five years of age.
- E. A person who has been convicted, adjudicated guilty except insane or adjudicated delinquent and who is required to register in the convicting or adjudicating state for an act that would constitute an offense specified in subsection A or C of this section and who is not a resident of this state shall be required to register pursuant to this section if the person is either:
- 1. Employed full-time or part-time in this state, with or without compensation, for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year.
- 2. Enrolled as a full-time or part-time student in any school in this state for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year. For the purposes of this paragraph, "school" means an educational institution of any description, public or private, wherever located in this state.
- F. Any duty to register under subsection D or E of this section for a juvenile adjudication terminates when the person reaches twenty-five years of age.

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- G. The court may order the termination of any duty to register under this section on successful completion of probation if the person was under eighteen years of age when the offense for which the person was convicted or adjudicated guilty except insane was committed.
- H. The court may order the suspension or termination of any duty to register under this section after a hearing held pursuant to section 13-923.
- I. At the time of registering, the person shall sign or affix an electronic fingerprint to a statement giving such information as required by the director of the department of public safety, including all names by which the person is known, any required online identifier and the name of any website or internet communication service where the identifier is being used. The sheriff shall fingerprint and photograph the person and within three days thereafter shall send copies of the statement, fingerprints and photographs to the department of public safety and the chief of police, if any, of the place where the person resides. information that is required by this subsection shall include the physical location of the person's residence and the person's address. If the person has a place of residence that is different from the person's address, the person shall provide the person's address, the physical location of the person's residence and the name of the owner of the residence if the residence is privately owned and not offered for rent or lease. If the person receives mail at a post office box, the person shall provide the location and number of the post office box. If the person has more than one residence or does not have an address or a permanent place of residence, the person shall provide a description and physical location of any temporary residence and shall register as a transient not less than every ninety days with the sheriff in whose jurisdiction the transient is physically present.
- J. On the person's initial registration and every year after the person's initial registration, the person shall confirm any required online identifier and the name of any website or internet communication service where the identifier is being used and the person shall obtain a new nonoperating identification license or a driver license from the motor vehicle division in the department of transportation and shall carry a driver nonoperating identification license а license. or Notwithstanding sections 28-3165 and 28-3171, the license is valid for one year from the date of issuance, and the person shall submit to the department of transportation proof of the person's address and place of residence. The motor vehicle division shall annually update the person's address and photograph and shall make a copy of the photograph available to the department of public safety or to any law enforcement agency. The motor vehicle division shall provide to the department of public safety daily address updates for persons required to register pursuant to this section.

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- K. Except as provided in subsection E or L of this section, the clerk of the superior court in the county in which a person has been convicted of or adjudicated guilty except insane for a violation of any offense listed under subsection A of this section or has been ordered to register pursuant to subsection C or D of this section shall notify the sheriff in that county of the conviction or adjudication within ten days after entry of the judgment.
- L. Within ten days after entry of judgment, a court not of record shall notify the arresting law enforcement agency of an offender's conviction of or adjudication of guilty except insane for a violation of section 13-1402. Within ten days after receiving this information, the law enforcement agency shall determine if the offender is required to register pursuant to this section. If the law enforcement agency determines that the offender is required to register, the law enforcement agency shall provide the information required by section 13-3825 to the department of public safety and shall make community notification as required by law.
- M. A person who is required to register pursuant to this section because of a conviction or adjudication of guilty except insane for the unlawful imprisonment of a minor or the kidnapping of a minor is required to register, absent additional or subsequent convictions or adjudications, for a period of ten years from the date that the person is released from prison, jail, probation, community supervision or parole and the person has fulfilled all restitution obligations. Notwithstanding this subsection, a person who has a prior conviction or adjudication of guilty except insane for an offense for which registration is required pursuant to this section is required to register for life.
- N. A person who is required to register pursuant to this section and who is a student at a public or private institution of postsecondary education or who is employed, with or without compensation, at a public or private institution of postsecondary education or who carries on a vocation at a public or private institution of postsecondary education shall notify the county sheriff having jurisdiction of the institution of postsecondary education. The person who is required to register pursuant to this section shall also notify the sheriff of each change in enrollment or employment status at the institution.
- O. At the time of registering, the sheriff shall secure a sufficient sample of blood or other bodily substances for deoxyribonucleic acid testing and extraction from a person who has been convicted of or adjudicated guilty except insane for an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the offenses listed in subsection A of this section or an offense that was in effect before September 1, 1978 and that, if committed on or after September 1, 1978, has the same elements of an offense listed in subsection A of this section or who is required to

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 register by the convicting or adjudicating jurisdiction. The sheriff shall transmit the sample to the department of public safety.

- P. Any person who is required to register under subsection A of this section shall register the person's required online identifier and the name of any website or internet communication service where the identifier is being used or is intended to be used with the sheriff from and after December 31, 2007, regardless of whether the person was required to register an identifier at the time of the person's initial registration under this section.
- Q. On conviction of or adjudication of guilty except insane for any offense for which a person is required to register pursuant to this section, in addition to any other penalty prescribed by law, the court shall order the person to pay an additional assessment of two hundred fifty dollars. This assessment is not subject to any surcharge. The court shall transmit the monies received pursuant to this section to the county treasurer. The county treasurer shall transmit the monies received to the state treasurer. The state treasurer shall deposit the monies received in the state general fund. Notwithstanding any other law, the court shall not waive the assessment imposed pursuant to this section.
- R. A person who is required to register pursuant to this section shall verify the person's address if requested by the department of public safety pursuant to section 13-3827, subsection G.
  - S. For the purposes of this section:
  - 1. "Address" means the location at which the person receives mail.
- 2. "Required online identifier" means any electronic e-mail address information or instant message, chat, social networking or other similar internet communication name, but does not include a social security number, date of birth or pin number.
- 3. "Residence" means the person's dwelling place, whether permanent or temporary.

APPROVED BY THE GOVERNOR MARCH 27, 2018

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 27, 2018

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Passed the House February 15, 20 18	Passed the Senate March 3,20 18
by the following vote: 57 Ayes,	by the following vote:Ayes,
Nays, Not Voting	Nays, Not Voting
WR &	Xthing B Carlessing
Speaker of the House  Pro Tempore	President of the Senate
ani Draha	Susan Leaus
Chief Clerk of the House	Secretary of the Senate
EXECUTIVE DEPARTMENT OF ARIZONA OFFICE OF GOVERNOR	
This Bill received by the Governor this	
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at 6.39 o'clock P. M.	
Secretary to the Governor	
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Governor of Arizona	EXECUTIVE DEPARTMENT OF ARIZONA
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	This Bill received by the Secretary of State
tl	nis 27 day of March , 20 18
H.B. 2053 at	1:32 o'clock P. M.
_	Michael Resser
	Secretary of State